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DISTRICT OF UTAH

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DENNIS C. FERGUSON (A1061)

WILLIAMS & HUNT

Attorneys for Defendants Provo City; Craig Geslison; Mark Troxel; and Daniel Cornell

257 East 200 South, Suite 500

P. O. Box 45678

Salt Lake City, Utah 84145-5678

Telephone: (801) 521-5678

Fax: (801) 364-4500

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

JOHNNY VEGA, an individual,

Plaintiff,

v.

UNITED STATES OF AMERICA, UNITED
STATES BUREAU OF IMMIGRATION AND
CUSTOMS ENFORCEMENT; UTAH

COUNTY; PROVO CITY; STEVEN

BRANCH, ICE officer, individually; TIMOTHY

CHARD, ICE officer, individually; JEFFREY

PERKINS, ICE officer, individually; DAVID

WARD, ICE officer, individually; UTAH

COUNTY JAMES TRACY, individually;

PROVO CITY POLICE CHIEF CRAIG

GESLISON, individually; MARK TROXEL,

Provo City Police Officer, individually; DANIEL

CORNELL, Provo City Police Officer,

individually; GRANT FERRE, officer at Utah

County Sheriff's Department, individually;

TODD ORTON, officer at Utah County Sheriff's

Department, individually; JASON PHILLIPPI,

officer at Utah County Sheriff's Department,

individually; JOHN DOES I-XC as agents,

servants or employees of ICE, Utah County

Sheriff Department, and Provo City Police

Department,

Defendants.

ORDER GRANTING THE MOTION
FOR SUMMARY JUDGMENT OF
PROVO CITY AND PROVO CITY
POLICE CHIEF CRAIG GESLISON
AND DENYING THE MOTION FOR
SUMMARY JUDGMENT OF
DEFENDANTS MARK TROXEL
AND DANIEL CORNELL

Case No. 2:04CV00663

Judge Bruce S. Jenkins

Magistrate Judge Paul M. Warner

On July 7, 2006, the Motion for Summary Judgment of Defendants' Provo City, Provo City Police Chief Craig Geslison and Provo City police officers Mark Troxel and Daniel Cornell came before the Court for oral argument before the Honorable Bruce S. Jenkins. Trent M. Sutton appeared on behalf of Plaintiff; Dennis C. Ferguson appeared on behalf of the moving Defendants; Glenn S. Greene of the United State Department of Justice appeared on behalf of Defendants United States of America, United States Bureau of Immigration and Customs Enforcement and agents Steven Branch, Timothy Chard, Jeffrey Perkins and David Ward. Prior to the hearing, the Court had reviewed the memoranda, deposition testimony and related documents submitted by the parties in support of and opposition to the Motion. The Court, having heard and considered oral argument and the pleadings submitted by the parties, and being fully informed, hereby ORDERS as follows:

1. Plaintiff's First, Second and Third Claims for Relief and all causes of action against Provo City and Provo City Police Chief Craig Geslison are hereby dismissed with prejudice for the reasons set forth in the memoranda in support of the motion for summary judgment.

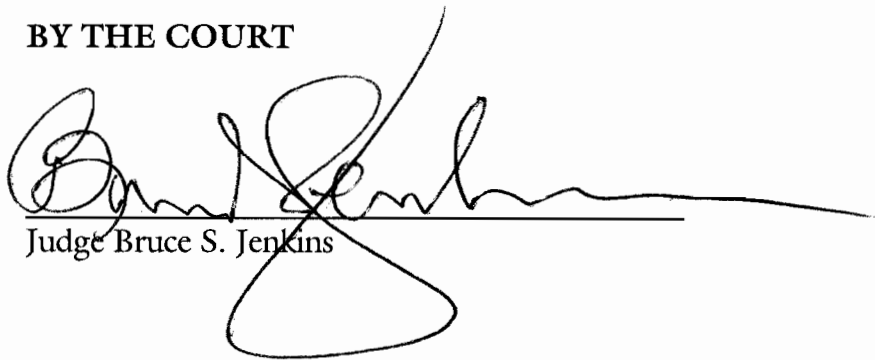
2. Plaintiff's claims against any John Doe Defendants who are agents or employees of Provo City are hereby dismissed with prejudice for the reasons set forth in the memoranda in support of the motion for summary judgment.

3. Plaintiff's claims against Provo City police officers Troxel and Cornell relate to their detention of him in the bathroom and office of a building located at the business location of Champion Safe during the execution of a search warrant obtained by the United States of America. Defendants Troxel and Cornell seek summary judgment claiming that their detention of Plaintiff, under prevailing United States Supreme Court and Tenth Circuit case law, was reasonable as a matter of law and/or that they are entitled to qualified immunity. The Court finds that there are questions of fact that preclude determination of those issues on summary judgment. Therefore, the Motion for Summary Judgment as to Defendants Troxel and Cornell is denied.

DATED this 17th day of August ~~July~~ 2006.

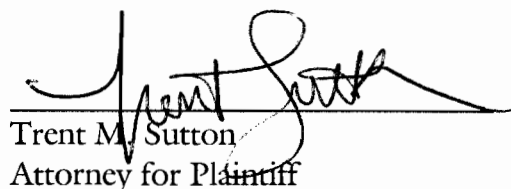
BY THE COURT

By



Judge Bruce S. Jenkins

Approved as to Form:



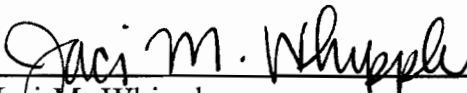
Trent M. Sutton
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Jaci M. Whipple says that she is employed in the law offices of Williams & Hunt, attorneys for Defendants Provo City; Craig Geslison; Mark Troxel; and Daniel Cornell herein, that she served the attached **Order Granting the Motion for Summary Judgment of Provo City Police Chief Craig Geslison and Denying the Motion for Summary Judgment of Defendants Mark Troxel and Daniel Cornell** in Case No. 2:04-CV-00663 before the United States District Court, upon the parties listed below by placing a true and correct copy thereof in an envelope addressed to:

Counsel for Plaintiff
Mark D. Stubbs - *E-FILER*
Trent M. Sutton
FILLMORE SPENCER, LLC
3301 N. University Avenue
Provo, Utah 84604

and causing the same to be mailed first class, postage prepaid, or via CM/ECF through the U.S. District Court, on the 25 day of July, 2006.



Jaci M. Whipple